

UNITED STATES DISTRICT COURT
for the
DISTRICT OF MASSACHUSETTS

PAUL T. PAPADAKIS,
Plaintiff,

v.

CSX TRANSPORTATION, INC.,
Defendant.

C.A. No.: 04-30189-MAP

**THE DEFENDANT, CSX TRANSPORTATION, INC.'S,
PRE-TRIAL DISCLOSURES PURSUANT TO
LOCAL RULE 16.5 AND FED. R. CIV. P. 26(a)(3)**

The defendant, CSX Transportation, Inc. ("CSX") hereby submits its *Pre-Trial Disclosures*, pursuant to Fed. R. Civ. P. 26(a)(1) and L.R. 16.5, as follows:

A. WITNESSES

a. Those Whom the Defendant Expects to Present:

1. The plaintiff, Paul T. Papadakis, 54 Carmel Lane, Feeding Hills, MA;
2. Kathleen Papadakis, 54 Carmel Lane, Feeding Hills, MA;
3. Scott Marshall, c/o CSX, 500 Water Street, Jacksonville, FL; (904) 366-5483;
4. Barbara Dunbar, R.N., c/o CSX, Rd. 2 Box 145, One Bell Crossing Rd, Selkirk, NY; 12158;
5. Pete Ebert, c/o TNT Repairs, Inc., 435 Newry Street, Greenville, NY; (518) 584-1300;
6. Ernest Gailor; Harlan-McGee, 4000 Silver Beach Rd, Malta, NY (518) 584-1300;
7. Dr. Edward Feldmann; 110 Lockwood Street, Ste 324, Providence, RI, 02093, (401) 444-8806;

8. Joseph Kent; 1229 Johnson Ferry Rd, Suite 103C, Marietta, GA 30068-2778,
(770) 565-0595
9. James Lamb; c/o CSX, Westfield, MA;
10. Ronald Jette; c/o CSX, 13 Northwest Rd, Spencer, MA;
11. James Santillo; c/o CSX, Feeding Hills, MA;
12. Dick Spatafore, c/o CSX, Albany, NY;
13. Dave Evers; c/o CSX, 41 Longwood Drive, Clifton Park, NY;
14. John McMahon, c/o CSX;
15. Everett Cooley, c/o CSX;
16. Richard G. Ross, 15 Tina Lane, Westfield, MA;
17. Plaintiff's treating physicians, nurses, therapists, medical treatment providers, and
other medical professionals regarding the injuries, medical treatment and the
nature and extent of any disabilities which were allegedly caused by the accident
which is the subject of the plaintiff's *Complaint*, including but not limited to:
 - a. Franklyn Carrington, M.D., 377 Walnut St. Ext., P.O. Box 788, Agawam,
MA;
 - b. Lawrence H. Field, M.D., 780 Chestnut Street, Springfield, MA;
 - c. Representatives of Baystate MRI and Imaging Center, 3300 Main Street, P.O.
Box 1289, Springfield, MA;
 - d. Bernard A. Pfeifer, another representative of M.D., Lahey Clinic, 41 Mall
Road, Burlington, MA;
 - e. R. Scott Cowan, M.D., and/or representatives of N.E. Orthopedic Surgeons,
300 Carew Street, Springfield, MA;
 - f. Paul B. Markarian, M.D., Baystate MRI and Imaging Center, 3300 Main
Street, P.O. Box 1289, Springfield, MA;

- g. Shan Li, M.D., Baystate MRI and Imaging Center, 3300 Main Street, P.O. Box 1289, Springfield, MA;
- h. David Mernoff, M.D., and/or other Representatives of Mercy Hospital, 299 Carew Street, Springfield, MA;
- 7. Kevin Krause, TNT Repairs, S. Bethlehem, NY;
- 8. Lou Frangella, One Bell Crossing, Rd 2, Box 145, Selkirk, NY 12158;

CSX hereby adopts and incorporates herein by reference the list of witnesses which the plaintiff identified in his automatic disclosure, and reserves the right to supplement its list of witnesses from time to time as discovery proceeds.

b. Those the Defendant May Call if the Need Arises:

- 9. Plaintiff's treating physicians, nurses, therapists, medical treatment providers, and other medical professionals regarding any and all pre-existing conditions or injuries, including but not limited to:
 - a. Representatives of New England Orthopedic Surgeons, 300 Carew Street, Springfield, MA;
 - b. Thomas S. Kaye, M.D., and/or other representatives of Valley Neurological Surgery, P.C., 300 Stafford Street, Springfield, MA;
 - c. Representatives of the Lahey Clinic, 41 Mall Road, Burlington, MA; and
 - d. Representatives of Valley Neurological Surgery, P.C., 300 Stafford Street, Springfield, MA;
 - e. Anthony Rizzo, M.D., One Stafford Street, Springfield, MA;
 - f. Representatives of Baystate Medical Center, Springfield, MA;
 - g. J. Hector Pope, M.D., c/o Baystate Medical Center, Springfield, MA;
 - h. J. Gordon Rich, M.D., Springfield, MA;
 - i. Representatives of Orthopedic Associates of Springfield, Inc., 401 Chestnut Street, Springfield, MA;
 - j. David Mase, c/o Work Connection, 575 Beech Street, Holyoke, MA;

- k. Representatives of MVA Center for Rehabilitation, 300 Stafford Street, Springfield, MA; and
- l. Desmond Ebanks, M.D., 83 Wooster Hights Road, Danbury, CT.
- 10. Raymond Fecteau, 408 Atlantic Avenue, Rm 441, Boston, MA 02208, (617) 223-8550; David McCann, Robert Duda, and/or Claudia Walsh, 844 North Rush Street, Chicago, IL 60611, or other Representatives of the Railroad Retirement Board;
- 11. Representatives of TNT Repairs, Inc., S. Bethlehem, NY;
- 12. Thomas Cook, M.D., c/o CSX;
- 13. Michelle Combs, Lysha Hillstrom, Pansy Blancett and/or other representatives of Unum Provident, One Fountain Square, Chattanooga, TN, 37402;
- 14. Roy Squires, c/o CSX;
- 15. Thomas Neilson, M.D., c/o CSX, 500 Water Street, J290, Jacksonville, FL 32202-0586 (904) 359-1500;
- 16. Daniel Eckles, c/o CSX, Selkirk, NY;
- 17. Kevin O'Toole, c/o CSX, 84 Milton Street, Dorchester, MA 02124; (617) 288-6031;
- 18. Rusty Hayner, c/o CSX;
- 19. Dave Caron, c/o CSX; One Bell Crossing, Rd 2, Box 145, Selkirk, NY 12158, (518) 371-1600;
- 20. Rebecca Savoie, c/o CSX, 112 South Ramsey Street, Charlotte, NC, 28216, (704) 401-3150;
- 21. Bob McGovern, c/o CSX, Readville, MA;
- 22. Jim Decker, c/o CSX;
- 23. Ed Tubbs, c/o CSX;
- 24. Michael Bossone, c/o CSX;
- 25. Tammi Hill, c/o CSX;

26. Jim Cronin, c/o CSX, 151 Day Street, West Springfield, MA, 01089 (413) 785-4300;
27. Daniel Russo or other representatives of Aegis International, P.O. Box 821, Windsor, CT 06095, (860)688-9466;
28. Representatives from Harsco Corporation, 2401 Edmond Street, P.O. Box 20, Cayce-West Columbia, SC 29171-0020.

B. DESIGNATION OF WITNESSES WHOSE TESTIMONY IS EXPECTED TO BE PRESENTED BY MEANS OF A DEPOSITION

29. David Evers, c/o CSX, 41 Longwood Drive, Clifton Park, NY;
30. Ernest Gailor, Harlan-McGee, 4000 Silver Beach Rd, Malta, NY (518)584-1300;
31. Peter Ebert, c/o TNT Repairs, 435 Newry Street, Greenville, NY, (518) 767-9774;
32. Dr. Franklyn Carrington, 377 Walnut Street Ext., Agawam, MA;
33. Dr. Lawrence Field, 780 Chestnut Street, Springfield, MA.

C. DOCUMENTS OR EXHIBITS

a. Those which the Defendant Expects to Offer:

1. Employee's Incident Report (Form PI-1A), dated June 15, 2001;
2. Photos taken by Joe Kent;
3. Photograph taken of safety instructions printed in the hy-rail vehicle;
4. Photos taken 2/15/05 by plaintiff;
5. Photos taken 9/24/04 by defendant;
6. Photos taken by Michael B. Flynn 9/24/04;
7. CSX document, "Safe Way, Engineering and Mechanical Departments;"
8. CSX Safety Rules;
9. The plaintiff's receipt of Safety Rules form;

10. TNT Repairs, Inc.'s invoice number 07473, dated 6/14/01;
11. TNT maintenance and repair book;
12. CSX Fleet management system repair history printout;
13. Fairmont Operator's Service and Parts Manual, revised 12/90, marked as Exh. 3 at plaintiff's deposition 5/16/05;
14. Fairmont Operator's Service and Parts Manual, revised 5/93, marked as Exh. 1 3/31/05;
15. Fairmont Hy-rail Operator's Manual, marked as Exh. 3 at Richard Sanderson's deposition;
16. Hy-rail bar, marked as Exh. 2 at plaintiff's deposition 5/16/05;
17. Hy-rail double bend bar;
18. VHS video by Harsco titled "Operation Instructions for Light Duty Hy-rail Guidewheel Equipment" tape #V1-093;
19. The hy-rail truck the plaintiff was using at the time of his accident;
20. Diagram marked as exhibit 4 at Richard Sanderson's deposition;
21. Letter from Attorney Byrne to Ernest Gailor dated 5/27/04, marked exhibit 6 at Mr. Gailor's deposition;
22. Memorandum to the Papadakis file dated 6/21/05, marked exhibit 9 at Mr. Gailor's deposition;
23. Transcript of plaintiff's recorded statement taken 6/21/01 by Becky Savoie, CSX;
24. Recording of plaintiff's recorded statement taken 6/21/01 by Becky Savoie, CSX;
25. Disability Claim forms prepared by the plaintiff and/or his physicians, including but not limited to Dr. Field or Dr. Carrington;
26. Article, "A Knife in the Back" by Dr. Groopman, from *The New Yorker*, 4/8/02;
27. Unum Provident records regarding benefits paid;
28. Correspondence between Unum Provident and the plaintiff;

29. Unum Provident Supplemental Sickness Plan booklet R05000, believed to be in the possession of the plaintiff;
30. Health insurance special notice form;
31. Dr. Carrington's complete records, including but not limited to:
 - i. Office note dated 8/11/77;
 - ii. Internal medicine document dated 6/27/01, marked Exhibit 2C at Dr. Carrington's deposition;
 - iii. Office note dated 8/15/78;
 - iv. Office note dated 8/30/01;
 - v. Internal medicine document dated 6/15/01, marked as exhibit 2A at Dr. Carrington's deposition;
32. Dr. Field's complete records, including but not limited to:
 - i. Letter to Dr. Carrington from Dr. Field dated 8/9/01;
 - ii. Letter from Dr. Field to Dr. Carrington, dated 6/28/01;
 - iii. Letter to Attorney Byrne from Dr. Field dated 9/22/03, copy marked exhibit 7 at Dr. Field's deposition;
 - iv. History File Records, marked exhibit 8 at Dr. Field's deposition;
 - v. Letter dated 3/10/05 to Attorney Byrne, marked exhibit 9 at Dr. Field's Deposition;
 - vi. Original signature page for 3/10/05 letter to Attorney Byrne from Dr. Field marked exhibit 11 at Dr. Field's deposition;
 - vii. Dr. Field's Intake Sheet dated 6/28/01, marked exhibit 12 at Dr. Field's deposition;
 - viii. Workmen's Compensation Questionnaire dated 6/28/01, marked exhibit 13 at Dr. Field's deposition;
33. Letter from Attorney Byrne to Dr. Field dated 3/11/05, marked exhibit 10 at Dr. Field's Deposition;
34. Letter from Attorney Byrne to Dr. Field dated 2/7/05;
35. Letter from Attorney Byrne to Dr. Field dated 3/24/05;
36. General claims payroll extract;
37. Railroad Retirement Board sickness benefit statements;
38. Railroad Retirement Board Form AA-1d Application for Determination of Disability;
39. Job description from CSX;

40. Pamphlet from CSX Vocational rehabilitation;
41. Video from CSX Vocational rehabilitation;
42. Vocational rehabilitation questionnaire, 12/14/01;
43. Letter from Scott Marshall to plaintiff dated 12/9/05;
44. Letter from Thomas Neilson to Attorney Naumes dated 12/19/03;
45. Letter from Dr. Pheifer to plaintiff dated 5/15/02;
46. Letter from Thomas Neilson to Attorney Naumes dated 10/13/03;
47. Letter from Attorney Naumes to Thomas Cook dated 10/1/03;
48. Letter from Thomas Cook to Attorney Naumes dated 9/25/03;
49. Letter from Attorney Naumes to Thomas Cook dated 9/23/03;
50. Letter from Thomas Cook to Attorney Naumes dated 7/17/03;
51. Letter from Thomas Cook to Attorney Naumes dated 7/13/03;
52. Letter from Thomas Cook to plaintiff dated 5/22/03;
53. Letter from Thomas Cook to plaintiff dated 3/20/03;
54. Letter from Thomas Cook to plaintiff dated 1/7/03;
55. Letter from Thomas Cook to plaintiff dated 2/23/02;
56. Letter from Attorney Naumes to Thomas Cook dated 12/18/02;
57. Letter from Thomas Cook to plaintiff dated 11/7/02;
58. Letter from Thomas Cook to plaintiff dated 8/27/02;
59. Letter from Thomas Cook to plaintiff dated 4/18/02;
60. Letter from Barbara Dunbar to Dr. Pheifer dated 3/7/02;
61. Letter from Thomas Cook to plaintiff dated 1/21/02;
62. Letter from Thomas Cook to plaintiff dated 11/20/01;

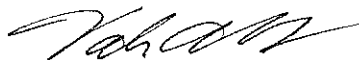
63. Letter from Attorney Naumes to Rebecca Savoie dated 8/10/01;
64. Letter from Scott Cowan, M.D. to Dr. Field dated 11/16/01;
65. Letter from Barbara Dunbar to Dr. Cowan dated 9/27/01;
66. Letter from Barbara Dunbar to Dr. Thomas Kaye dated 8/1/01;
67. Letter from Thomas Cook to plaintiff dated 6/19/01;
68. Letter from Barbara Dunbar to Dr. Field dated 6/27/01;
69. Letter from Barbara Dunbar to Dr. Carrington dated 6/17/01;
70. Letter from Barbara Dunbar to Plaintiff dated 6/17/01;
71. Defendant reserves the right to introduce records from the Plaintiff's treating physicians, nurses, therapists, medical treatment providers, and other medical professionals regarding his treatment for injuries allegedly suffered as the incident which is the subject of his complaint, as well as any and all pre-existing conditions or injuries, including but not limited to:
 - a. Records from Baystate MRI and Imaging Center, 3300 Main Street, P.O. Box 1289, Springfield, MA, including but not limited to:
 - i. MRI report dated 7/7/01;
 - ii. MRI report dated 4/23/02;
 - b. Records from New England Orthopedic Surgeons, 300 Carew Street, Springfield, MA, including but not limited to the office note dated 11/6/01, marked as exhibit 10 at the plaintiff's deposition;
 - c. Records of Mercy Hospital, 299 Carew Street, Springfield, MA, including but not limited to:
 - i. X-ray report dated 6/15/01;
 - ii. Emergency Room report dated 12/10/93;
 - d. Records from Valley Neurological Surgery, P.C., 300 Stafford Street, Springfield, MA, including but not limited to the record dated 8/28/01.
- b. Those which the Defendant May Offer if the Need Arises:**
72. Department of Labor Dictionary of Occupational Titles;

73. Ernest Gailor's report dated 8/24/05, marked as Exh. 11 at his deposition;
74. Ernest Gailor's report dated 8/24/05, marked as Exh. 12 (second version) at his deposition;
75. Ernest Gailor's report dated 8/24/05, marked as Exh. 13 (third version) at his deposition;
76. Ernest Gailor's memorandum, marked as exhibit 10 at Mr. Gailor's deposition;
77. Plaintiff's federal and state income tax returns from 1997 to present, some which are in the possession of the plaintiff and have not yet been produced;
78. The plaintiff's W-2's from 1997 to the present, none of which have been produced;
79. The hy-rail assembly itself and/or a mock-up of same;
80. Letter from the RRB to the plaintiff dated 11/22/02;
81. RRB letter to plaintiff dated 6/13/02;
82. RRB records of recent payments;
83. Provident Life disability claim documents;
84. Records from Lahey Clinic, 41 Mall Road, Burlington, MA;
85. Records from Anthony Rizzo, M.D., One Stafford Street, Springfield, MA;
86. Records from Baystate Medical Center, Springfield, MA;
87. Records from J. Gordon Rich, M.D., Springfield, MA;
88. Records from Orthopedic Associates of Springfield, Inc., 401 Chestnut Street, Springfield, MA;
89. Records from David Mase, c/o Work Connection, 575 Beech Street, Holyoke, MA;
90. Records from MVA Center for Rehabilitation, 300 Stafford Street, Springfield, MA; and
91. Records from Desmond Ebanks, M.D., 83 Wooster Hights Road, Danbury, CT;
92. Records from the Pain Management Center, 3400 Main Street, Springfield, MA;

- 93. Records from Orthopedic Surgeons, 300 Bernie Avenue, Springfield, MA;
- 94. Records from Springfield Anesthesia services, Inc.

CSX reserves the right to use any of the documents, data compilations and tangible things identified and/or produced by the plaintiff and incorporates herein by this reference the documents, data compilations and tangible things set forth in the plaintiff's disclosures. CSX also reserves the right to supplement its list of documents, data compilations and tangible things prior to trial.

Respectfully submitted,
The Defendant,
CSX TRANSPORTATION, INC.,
By its attorneys:


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Valerie A. Murphy, BBO #661460
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Dated: March 30, 2006

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